

# Supersession

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A dentist places temporary crowns and a follow up appointment is made to place the permanent crowns, which are manufactured and ready for that appointment. Before the date of the appointment, the patient advises the dentist that he/she has consulted with another practitioner who has now placed the permanent crowns. This is done without the patient terminating the contract with the dentist or settling outstanding fees due.

The first dentist is understandably upset and wants to report the second practitioner for unethical and unprofessional conduct (supersession). The issue becomes more acute if the patient owes the original practitioner substantial fees or if the first practitioner cannot submit a final account as treatment is not yet completed and the contract for services by the patient is not terminated.

A specialist carries out complicated treatment on a patient, the patient then seeks the final stages of treatment from another practitioner whose scope permits it but who charges lower fees. The specialist is upset that the intellectual skill of the specialist is now taken over by the second practitioner and the specialist considers this supersession.

On a daily basis practitioners experience their colleagues taking over ongoing treatment. The colleague then completes the treatment without further notification or consultation with the original practitioner. The second practitioner when confronted often claims that treatment was provided at the patient's request.

Another instance is where dental advisors employed by medical schemes are considered to be transgressing the rules on supersession by denying benefits, declining authorisations, imposing limitations or providing other treatment modalities. From a reading of the Rules (below), the dental advisor is not taking over treatment of the patient (scheme member) but simply imposing scheme rules, benefits and limitations as to whether or not they will fund the member's dentist in terms of the contract the member has with the medical scheme.

There is very little about the conduct of practitioners, apart from advertising, that evoke such strong responses and sense of anger from practitioners as 'supersession' where practitioners believe their colleagues have violated their

collegiate relationships and professional relationships by stealing away their patients.

The supersession rule was evolved not to ensure that the first at the dinner table does not lose his/her dinner. It was designed to enhance the conjoint welfare of the patient and the dentist. In most cases, the patient's treatment is compromised as the full benefit of the first practitioner's initial findings, investigations and dental expertise is not carried forward. It may be that the advice of the first practitioner may be superior, but being not carried forward, it is lost to the patient.

Supersession is a verb which means to take the place of or supplant, to replace or discard or set aside or cause to be set aside as obsolete or inferior.

Supersession is a practice of taking over the patient of another practitioner without informing the other practitioner where the patient has not terminated or paid for the first dentist's services.

The Ethical Rules of Conduct for Practitioners registered in Rule 10 under the heading Supersession provides that "A practitioner shall not supersede or take over a patient from another practitioner if he or she is aware that such patient is in active treatment of another practitioner, unless he or she-

- (a) Takes reasonable steps to inform the other practitioner that he or she has taken over the patient at such patient's request; and
- (b) Establishes from the other practitioner what treatment such patient previously received, especially what medication, if any, was prescribed to such patient and in such patient and in such case the other practitioner shall be obliged to provide such required information.

The rule above shows supersession is permissible provided the positive actions mentioned in paragraphs (a) and (b) above are met by the second practitioner who is taking over treatment of the patient. Therefore any complaint that the practitioner has 'stolen' or 'taken away' the patient may be based on an accusation of unethical conduct and breach of ethical rule 10 above only if the conditions are not complied with.

The issue of supersession must also be read in conjunction with right of trust and patient's autonomy, their right to decide whether or not to undergo any intervention, even if refusal may result in harm. It should be remembered that a patient has the right to terminate treatment at any

time and to seek treatment from another practitioner. In this case, the practitioner who is taking over the patient should inform the first practitioner about the patient's decision and seek details of treatment carried out thus far. Although the rules are silent, reading the rights of confidentiality and the injunction not to impede patients, it would seem that the patient's consent would first need to be obtained.

The question may also arise if the first patient has to hand over files or depending on the nature and extent of information that should be given. It appears the first practitioner may be required to give information but not the files. Where the patient has not paid for the service provided by the original practitioner for example, specialist or special skills assessment done, the document remains the property of the original practitioner.

One must also read this in conjunction with provisions of Ethical Rule 11 "Impeding Patients" which impose a duty on a practitioner not to impede his/her patients from obtaining an opinion from another practitioner or from being treated by another practitioner.

Rule 12 also provides that a practitioner should not cast reflections on the probity, professional reputation or skills of another registered person.

Thus despite the belief to the contrary, supersession is not prohibited, it is permissible subject to compliance with the positive duties imposed on practitioners. If the practitioner taking over treatment of patients of another practitioner does not comply with the conditions above, he/she may be reported for unethical conduct.

#### References

1. Ethical Rules of Conduct for Practitioners Registered under the Health Professions Act, 1974, 4 August 2006 amended 2009 and 2010.
2. HPCSA Ethical Booklets 1-14
3. van der Reyden, D. The right to respect for autonomy, Part 1 What is autonomy all about?, SA Journal of Occupational Therapy 2008; 38 (1): 27-31.